

Decision 09-04-022 April 16, 2009

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the California Department of Transportation for an order authorizing the replacement and widening of the existing Bradley Overhead Bridge over one existing track and one proposed track (per general Order 26-D), owned and operated by BNSF at State Route 140, in the city of Merced, county of Merced, State of California.

Application 08-11-010  
(Filed November 7, 2008)

**DECISION GRANTING CALTRANS AUTHORITY  
TO REPLACE THE EXISTING BRADLEY OVERHEAD BRIDGE,  
A GRADE- SEPARATED CROSSING, WITH A NEW GRADE-SEPARATED  
STRUCTURE OVER THE TRACK AND RIGHT-OF-WAY OF THE BNSF  
RAILWAY IN THE CITY OF MERCED AND COUNTY OF MERCED**

**Summary**

This decision grants the request of the California Department of Transportation (Caltrans) for authority to replace the existing Bradley Overhead Bridge, a grade-separated crossing, with a new grade-separated structure, which will also be known as the Bradley Overhead Bridge, on State Route (SR) 140 over the track and right-of-way of the BNSF Railway (BNSF), extending from the City of Merced (City) to the County of Merced (County) limits. The new grade-separated crossing will be located in essentially the same location as the existing structure, and will be identified the same, CPUC Crossing No. 002-1054.00-A.

## **Discussion**

The proposed project involves replacing the existing two-lane Bradley Overhead Bridge, a non-standard bridge, built in 1931, carrying traffic on SR 140, with a new grade-separated structure, built to current design standards, which would have five lanes, shoulders, and sidewalks. The proposed project is part of a larger project that involves widening SR 140 from Marthella Avenue in the City to 0.16 mile east of Santa Fe Avenue in the County, realigning several local streets, and signaling several local intersections. The purpose of the overall project is to replace the existing, non-standard design Bradley Overhead Bridge with a new multi-lane bridge that will handle traffic more safely and efficiently, alleviate local street traffic congestion, improve pedestrian and non-motorized vehicle access, and accommodate future traffic demands.

## **Environmental Review and CEQA Compliance**

The California Environmental Quality Act of 1970 (CEQA, as amended, Public Resources Code Section 21000 et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential significant environmental effects of the proposed activities. The Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission must approve the project pursuant to Section 1202 of the Public Utilities Code), therefore, the Commission must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

The lead agency is the public agency with the greatest responsibility for supervising or approving the project as a whole.<sup>1</sup> Here, Caltrans is the lead agency for this project and the Commission is a responsible agency. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting on or approving this project.<sup>2</sup>

Pursuant to CEQA and the National Environmental Policy Act (NEPA),<sup>3</sup> Caltrans and the Federal Highway Administration (FHWA) prepared environmental documentation titled *Bradley Overhead Replacement and Widening, Final Environmental Impact Report/Environmental Assessment with Finding of No Significant Impact and Section 4(f) Evaluation*, dated March 2006, which identifies environmental impacts related to the Bradley Overhead Bridge replacement and SR 140 widening project.

Environmental impacts related to safety, traffic (transportation), and noise are within the scope of the Commission's permitting process. In this Final Environmental Impact Report (FEIR)/Environmental Assessment with Finding of No Significant Impact (FONSI), no significant impacts related to safety and traffic issues are identified. There will be noise impacts at some locations due to increases in traffic in the project area. Installation of a sound wall is proposed at

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<sup>1</sup> CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

<sup>2</sup> CEQA Guidelines, Sections 15050(b) and 15096.

<sup>3</sup> 42 USC 4332 (2)(c) of 1969 as amended. Projects undertaken in California that utilize federal funds, require discretionary federal approval, or are undertaken by federal agencies are subject to both NEPA and CEQA.

one location because it is feasible to install and because the noise increase is sufficient to trigger Caltrans noise abatement criteria.

The Bradley Overhead Bridge has been identified as eligible for inclusion in the National Register of Historic Places (NRHP) because it was the first arc-welded steel girder bridge in California and served as an important element of the “All-Year Highway” to Yosemite. Because of this historical significance, demolishing the Bradley Overhead Bridge is considered significant under CEQA. As a result of this assessment, Caltrans has prepared an analysis pursuant to Section 4(f) of the U.S. Department of Transportation Act of 1966, which lists alternatives to avoid the destruction of the bridge. None of these alternatives, however, have been deemed feasible. In addition, it was apparent during coordination with local agencies and the public, that there was no local support for maintaining the existing structure. Nevertheless, Caltrans is required to minimize the adverse effects on a historic property. Caltrans has done this by submitting a Finding of Effects and Memorandum of Agreement detailing a planned mitigation strategy that allows for the demolition despite its eligibility for inclusion in the NRHP that was signed by FHWA, the State Historic Preservation Officer, and Caltrans in June 2005.

FHWA has reviewed this project to determine its compliance with NEPA requirements, and on April 14, 2006, signed a Finding of No Significant Impact based on its determination that the project will not have any significant impact on the human environment.

Mitigation measures were made a condition for the approval of this project. We will adopt Caltrans’ and FHWA’s environmental findings and mitigations for purposes of our approval.

### **Filing Requirements and Staff Recommendations**

This application is in compliance with the Commission's filing requirements, including Rule 3.7 of Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section has inspected the site of the proposed crossing, has reviewed and analyzed the plans submitted with the application, and recommends that the Commission grant Caltrans' request.

### **Categorization and Need for Hearings**

In Resolution ALJ 176-3225 dated November 21, 2008, and published in the Commission's Daily Calendar on November 24, 2008, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3225.

### **Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

## **Findings of Fact**

1. Notice of the application was published in the Commission's Daily Calendar on November 12, 2008. There are no unresolved matters or protests. A public hearing is not necessary.

2. Caltrans requests authority, under Public Utilities Code Sections 1201-1205, to replace the existing Bradley Overhead Bridge, a grade-separated crossing, with a new grade-separated structure over the track and right-of-way of BNSF in the City of Merced and County of Merced. The new grade-separated crossing will be identified the same as the existing one, CPUC Crossing No. 002-1054.00-A.

3. Caltrans is the lead agency for this project under CEQA, as amended. Caltrans and FHWA, acting pursuant to CEQA and NEPA, prepared an FEIR/Environmental Assessment with FONSI.

4. Safety, traffic (transportation), and noise are within the scope of the Commission's permitting process. Caltrans' and FHWA's FEIR/Environmental Assessment with FONSI for the Bradley Overhead Bridge replacement and widening of SR 140 project identified no significant impacts related to safety and traffic. There will be noise impacts at some locations due to increases in traffic that will be mitigated by installing a sound wall at one location where it is feasible to do so and where Caltrans noise abatement criteria are triggered.

5. Demolition of the Bradley Overhead Bridge is considered a significant impact under CEQA. Pursuant to section 4(f) of the U.S. Department of Transportation Act of 1966, Caltrans prepared an analysis which lists alternatives to demolishing the bridge; however, after none of them were deemed feasible, Caltrans submitted a Finding of Effects and Memorandum of Agreement detailing a planned mitigation strategy that allows the demolition, that was

signed by FHWA, the State Historic Preservation Officer, and Caltrans in June 2005.

6. Pursuant to NEPA, FHWA signed a FONSI for the project on April 14, 2006.

7. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's FEIR/Environmental Assessment with FONSI.

### **Conclusions of Law**

1. The FEIR/Environmental Assessment with FONSI prepared pursuant to CEQA and NEPA are adequate for our decision-making purposes.

2. We adopt Caltrans' and FHWA's environmental findings that the replacement of the existing Bradley Overhead Bridge project will not have a significant effect on the environment.

3. The application is uncontested and a public hearing is not necessary.

4. The application should be granted as set forth in the following order.

### **O R D E R**

#### **IT IS ORDERED** that:

1. California Department of Transportation (Caltrans) is authorized to replace the Bradley Overhead Bridge, a grade-separated crossing, with a new grade-separated structure over the track and right-of-way of the BNSF Railway in the City of Merced and County of Merced, at the location and substantially as described in the application. The new crossing will be identified the same as the existing one, CPUC Crossing No. 002-1054.00-A.

2. Within 30 days after completion of the work under this order, Caltrans shall notify the Commission's Rail Crossings Engineering Section (RCES) that the

authorized work is completed by submitting a completed Standard Commission Form G titled *Report of Changes at Highway Grade Crossings and Separations*.

3. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not satisfied. The Commission may revoke or modify this authorization if public convenience, necessity, or safety so require.

4. A request for extension of the three-year authorization period must be submitted to RCES at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

5. This application is granted as set forth above.

6. Application 08-11-010 is closed.

This order becomes effective 30 days from today.

Dated April 16, 2009, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners